

September 28, 2011

EX PARTE

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

On September 26, 2011, the undersigned met with Angela Kronenberg - Wireline Legal Advisor to FCC Commissioner Mignon Clyburn on behalf of Bright House Networks (Bright House). The purpose of the meeting was to amplify Bright House's views on certain aspects of the above captioned matter.

We expressed the company's support for the positions laid out by the National Cable & Telecommunications Association in response to request for comments on universal service reform, particularly in capping the size of the fund and redirecting the fund to provide broadband support and support only in those areas which are unserved.

As to questions relating to the reform of the inter-carrier compensation issues, we expressed Bright House's strong view, reflected in his company's several submissions,¹

¹ See Comments Of Bright House Networks Information Services, LLC in WC Docket No. 10-90 et al. (filed April 1, 2011); Reply Comments Of Bright House Networks Information Services, LLC in WC Docket No. WC 10-90 et al. (filed April 19, 2011); Comments Of Bright House Networks Information Services, LLC in WC Docket No. 10-90 et al. (filed Aug. 24, 2011); Reply Comments Of Bright House Networks Information Services, LLC in WC Docket No. 10-90 et al. (filed September 6, 2011). See also Summaries of Permitted Ex Parte Contact filed in WC Docket No. 10-90 et al., filed May 27, 2011, June 14, 2011.

terminating calls. In particular, the FCC should not adopt the proposal in the ILEC ABC Plan² to establish a separate, much lower intercarrier compensation rule for intrastate toll traffic that originates or terminates with an interconnected Voice over Internet Protocol (“VoIP”) service during the 18-month transition period proposed to commence on January 1, 2012.

Bright House provides connectivity for its customers to the public switched telephone network (“PSTN”) through its competitive local exchange carrier Bright House Networks Information Services, LLC. These digital voice services are part of a high bandwidth, multifunction network in which Bright House has invested hundreds of millions of dollars in its service areas. These investments, including a versatile, facilities-based voice network, have helped to fulfill the FCC’s goal for widely deployed broadband services. During this time of massive investment – leading to the realization of the 1996 Telecommunications Act’s goal of durable facilities-based competition -- the incumbent phone companies have been slow to convert customer connections on the PSTN to IP.

ILECs now maintain that their *failure* to update networks to IP on a faster timetable should be rewarded with *higher* intrastate access fees for their calls. Bright House and other cable operators, who upgraded networks to provide voice services and who have also erected CLECs by which to exchange TDM traffic with ILECs and interexchange carriers (IXCs), should inexplicably see intrastate access fees *reduced* during the transition to the level of interstate access. This amounts to a 90% reduction in intrastate access, compared to what the ILECs have proposed to give themselves during the transition. For Bright House, this amounts to millions of dollars forgone based on a self-serving distinction by the ABC proponents.

These proponents have stated no *policy* basis to distinguish between traffic that originates or terminates in IP but which is exchanged through TDM from their own. Indeed, unanimous Commission policy would hardly support this unfair result: Bright House’s digital voice networks reflect new investment in innovative broadband service sought by the FCC.³ Under the ABC proposal, it would be *punished* by reducing what may be collected by Bright House during the transition compared to the access fee that a legacy provider can collect from IXCs.

² See Attachment 1, p. 10, ABC Plan, Joint filing, July 29, 2011.

³ As the FCC noted in the NPRM in this proceeding, “As the VoIP industry has shown over the past few years, the impact of regulation affects whether consumers will have access to innovative features and functionalities offered by VoIP providers at the edge or if they will have access only to very limited VoIP products that merely mimic the circuit switched offerings of the past.” Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109, Notice Of Proposed Rulemaking And Further Notice Of Proposed Rulemaking, FCC 11-13, ¶ 611 (Feb. 9, 2011).

We further pointed out that Bright House would prefer to exchange its traffic IP to IP, but ILECs, including those who have signed on to the ABC Plan, have refused to do, in significant part because ILECs have not upgraded legacy networks to IP. As a consequence, Bright House and other cable operators have invested in facilities, including creating CLECs to maintain backward compatibility with legacy TDM-based providers to exchange traffic in a format acceptable to the ILECs and interexchange carriers. While there may be a difference in the technologies used by IP and circuit-switched carriers to originate or terminate calls, they both use the facilities of other carriers in the same way.

Differential access pricing during the 18-month transition would also encourage ILECs to engage in efforts to characterize traffic as IP so as to claim a lower exchange rate. This plank of the ABC plan would invite arbitrage and disputes over the identification of traffic during a period of transition that is supposed to decrease, not inflame, the regulatory conflicts that arise in intercarrier compensation disputes.

This possibility is far from theoretical. Bright House, along with other cable companies, find themselves in legal disputes with Verizon, one of the ABC Plan signatories, and other providers. In its role as IXC Verizon in particular has simply ceased paying intrastate access charges to Bright House in Florida, claiming that it is not required to do so because Bright House traffic originates or terminates in IP. It maintains this position with other cable CLECs, despite the fact that in every case, the traffic at issue is converted to TDM when presented for exchange to or from Verizon.

The cases -- all seeking similar relief, before state public service commissions and in federal court -- amount to intrastate access charge liability of tens of millions of dollars already and growing every month.⁴ The pattern in the cases is usually similar: after

⁴ See, e.g., Complaint of Cox California Telcom, LLC (U-5684-C) For Breach of Interconnection Agreements and Violation of Cox Tariffs, Cox California Telcom, LLC (U-5684-C) v. Verizon California, Inc. et al, Docket No. C.11-05-012 (Cal. Pub. Utils. Comm'n filed May 9, 2011); Complaint, Complaint against Verizon Florida, LLC et al. For Failure To Pay Intrastate Access Charges For The Origination And Termination Of Intrastate Interexchange Telecommunications Service, by Bright House Networks Information Services (Florida), LLC, Docket No. 110056-TP (Fla. Pub. Serv. Comm'n filed Feb. 22, 2011); Formal Complaint of Armstrong Telecoms., Inc., Armstrong Telecoms. Inc. v. Verizon Pennsylvania Inc. et al., Docket Nos. C-2010-2216205, 2216311, 2216325, & 2216293 (Penn. Pub. Util. Comm'n filed Dec. 16, 2010); Complaint, Complaint of Midcontinent Communications, Knology of the Plains, Inc., and Knology of the Black Hills, LLC, Against MCI Communications Servs., Inc. d/b/a Verizon Bus. Servs. for Unpaid Access Charges, Docket No. TC10-096 (S.D. Pub. Utils. Comm'n filed Oct. 27, 2010); Complaint of Cox California Telcom, LLC dba Cox Communications Against Vaya Telecom, Inc. Cox California Telcom, LLC (U-5684-C) Complainant v. Vaya Telecom, Inc. (U-7122-C), Defendant, C.11-09-007 (Cal. Pub. Utils. Comm'n filed September 9, 2011); Cablevision Lightpath, Inc. et al v. Verizon New York Inc. et al. 11-CV-2457 (E.D.N.Y. filed May 20, 2011).

paying the cable CLEC for exchanging intrastate long distance traffic for some period, Verizon either unilaterally lowers its payments or simply refuses to pay anything.

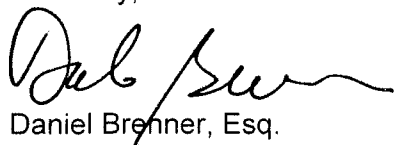
The ABC proposal would only exacerbate the problem identified in these complaints. While Verizon will continue to collect intrastate access charges, the proposed plan would provide cable companies with the interstate access rate for intrastate access service, or approximately 10% of what is properly due. The difference in payments for the 18-month transition based on the per-month losses cited in the state and federal complaints – to say nothing of the hundreds of other intrastate access charge collections that would be affected -- would amount, again, to tens of millions of dollars in lost revenues. This is a strange and unfair result to impose on cable companies, who have invested in newer technologies; the dollar impact starkly reveals how skewed the self-styled (and evidently self-benefiting) ABC “compromise” on intrastate toll amounts to.

Bright House recognizes that the Commission has a complex task to complete its work in USF and intercarrier compensation reform. But the agency should not adopt this unwarranted carve-out for ILEC-only relief in the area of intrastate access charges during the 18-month transition period. Intrastate access in TDM by BHN and Verizon is identical; so, too should be the permitted charges for this service.

Bright House respectfully requests that the Commission consider these points in its decision in the above-referenced matter.

Please contact undersigned counsel if you have any questions about this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Brenner", with a stylized flourish at the end.

Daniel Brenner, Esq.

Attachment

Cc: Angela Kronenberg, Esq.